

## National Park Service, Interior

## § 3.8

must report the accident to the superintendent.

(c) Filing a report with the superintendent may satisfy applicable United States Coast Guard, State, and local accident reporting requirements. Superintendents will forward the accident report to the appropriate reporting authority in a timely manner that complies with the requirements of 33 CFR 173.55.

### § 3.6 What are the requirements to operate a power driven vessel?

(a) To operate a power-driven vessel on park waters, a person must be either:

- (1) At least 16 years old; or
- (2) Between 12 and 15 years old and accompanied on the vessel by a person at least 18 years old.

(b) If a park area is located within a State having different age requirements, then the applicable State law is adopted in lieu of paragraph (a) of this section.

(c) If a park area is located within a State having a mandatory boater education requirement, then that State requirement is adopted.

### § 3.7 What are the NPS Personal Floatation Device (PFD) requirements?

(a) All requirements in Title 33 CFR part 175 related to PFDs are adopted.

(b) The Superintendent may require that a PFD be worn or carried on designated waters, at designated times and/or during designated water based activities in accordance with §§1.5 and 1.7 of this chapter.

### § 3.8 What vessel operations are prohibited?

(a) The following operations are prohibited:

- (1) Launching or operating an airboat.
- (2) Launching or recovering a vessel, except at a launch site designated by the superintendent.
- (3) Operating a power-driven vessel on waters not accessible by road.
- (4) Operating a vessel in excess of a length, width, or horsepower restriction established by the superintendent in accordance with §§1.5 and 1.7 of this chapter. For the purposes of this paragraph, vessel length is measured ac-

cording to criteria established in 46 CFR chapter I or 33 CFR chapter I.

(b) The following operations are inherently unsafe and therefore prohibited:

(1) Operating a power-driven or sailing vessel within 100 feet of a diver's flag except a vessel in support of dive operations, which may not be operated in excess of flat wake speed.

(2) Failing to observe restriction(s) established by a regulatory marker.

(3) Operating a vessel in excess of flat wake speed in designated areas.

(4) Operating a vessel in excess of flat wake speed within 100 feet of:

- (i) A downed water skier;
- (ii) A person swimming, wading, fishing from shore or floating with the aid of a flotation device;
- (iii) A designated launch site; or
- (iv) A manually propelled, anchored or drifting vessel. If the park is located within a State specifying different conditions, then that State law is adopted in lieu of this paragraph.

(5) Unless a designated area is marked otherwise, operating a power-driven or sailing vessel within 500 feet of a shoreline designated as a swimming beach. This prohibition does not apply in locations such as a river, channel, or narrow cove where passage is restricted to less than 500 feet. In such restrictive locations where swim beaches are designated, the operation of a vessel in excess of a flat wake speed is prohibited.

(6) Operating a power-driven vessel while a person is riding on the decking over the bow, gunwales, top edge of the transom, motor cover, or in any other unsafe position when the vessel is being operated. This provision does not apply when that portion of the vessel is designed and constructed for the purpose of carrying passengers safely at all speeds or when the vessel is maneuvering for anchoring, docking or mooring.

(7) Operating a power driven vessel engine/s or generator with a person sitting, riding or hanging on to a swim platform or swim ladder.

(8) Operating a vessel, or knowingly allowing another person to operate a vessel in a negligent manner, by failing to exercise that degree of care which a

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reasonable person, under like circumstances, would demonstrate in order to prevent the endangering of the life, limb, or property of a person(s) through the operator's lack of knowledge, inattention, or general carelessness.

(9) Operating a vessel or knowingly allowing another person to operate a vessel in a grossly negligent manner, by willfully and wantonly creating an unreasonable risk of harm to person(s) or property, regardless of whether the operator intended to cause harm.

#### § 3.9 May I operate my personal watercraft (PWC) in park waters?

(a) A person may operate a PWC only in park areas where authorized by special regulation. Special regulations may only be promulgated in the 21 parks listed in the following table:

Name	Water type	State
Amistad National Recreation Area.	Impounded Lake	TX
Assateague Island National Seashore.	Open Ocean/Bay	MD/VA
Bighorn Canyon National Recreation Area.	Impounded Lake	MT
Big Thicket National Preserve ...	River .....	TX
Cape Cod National Seashore ...	Open Ocean/Bay	MA
Cape Lookout National Seashore.	Open Ocean/Bay	NC
Chickasaw National Recreation Area.	Impounded Lake	OK
Cumberland Island National Seashore.	Open Ocean/Bay	GA
Curecanti National Recreation Area.	Impounded Lake	CO
Delaware Water Gap .....	River .....	PA/NJ
Fire Island National Seashore ...	Open Ocean/Bay	NY
Gateway National Recreation Area.	Open Ocean/Bay	NY
Glen Canyon National Recreation Area.	Impounded Lake	AZ/UT
Gulf Islands National Seashore	Open Ocean/Bay	FL/MS
Indiana Dunes National Lakeshore.	Natural Lake .....	IN
Lake Mead National Recreation Area.	Impounded Lake	AZ/NV
Lake Meredith National Recreation Area.	Impounded Lake	TX
Lake Roosevelt National Recreation Area.	Impounded Lake	WA
Padre Island National Seashore	Open Ocean/Bay	TX
Pictured Rocks National Lakeshore.	Natural Lake .....	MI
Whiskeytown-Shasta-Trinity National Recreation Area.	Impounded Lake	CA

(b) Where authorized, operation of a PWC on park waters is subject to the following conditions:

(1) No person may operate a PWC unless each person aboard is wearing a

Type I, II, III, or V PFD approved by the United States Coast Guard.

(2) A person operating a PWC equipped by the manufacturer with a lanyard-type engine cut-off switch must attach such lanyard to his person, clothing, or PFD, as appropriate for the specific vessel.

(3) No person may operate a PWC anytime between sunset and sunrise.

(4) No person may operate a PWC by jumping the wake, becoming partially airborne or completely leaving the water while crossing the wake of another vessel within 100 feet of the vessel creating the wake.

(5) If a park area is located within a State that has more restrictive regulations for the operation of PWC, then applicable State law applies in lieu of paragraphs (b)(1) through (b)(4) of this section.

#### § 3.10 What are the regulations regarding operating a vessel while under the influence of alcohol and/or drugs?

(a) Operating or being in actual physical control of a vessel is prohibited while:

(1) Under the influence of alcohol, a drug or drugs, or any combination thereof, to a degree that renders the operator incapable of safe operation; or

(2) The alcohol concentration in the operator's blood or breath is 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams or more of alcohol per 210 liters of breath.

(b) If State law that applies to operating a vessel while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits apply rather than the limits specified in paragraph (a) of this section.

(c) The provisions of this section also apply to an operator who is or has been legally entitled to use alcohol or drugs.

#### § 3.11 When is testing for alcohol or drugs required?

(a) At the request or direction of an authorized person who has probable cause to believe that an operator of a vessel has violated provisions of § 3.10, the operator must submit to one or more testing procedures of the blood, breath, saliva or urine for the purpose